

# NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

## ATTENDANCE AND LEAVE MANUAL

### Absence With Pay Personal Leave

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#### Purpose

Personal leave is intended to provide employees with time off without loss of pay to attend to matters of personal business and religious observance. It is not intended that personal leave be used either to augment or to substitute for vacation. While this rule mandates an annual crediting of five days personal leave to each employee, it does not guarantee the use of such leave upon request. The appointing authority may request evidence of the necessity of time off charged to personal leave credits, and, except in the event of an emergency, must approve use in advance.

**NOTE:** The uses of personal leave authorized by the Attendance Rules as described above have been radically modified by negotiated agreement. Manual users should be especially careful to read and apply the references to the negotiated provisions in the Related Contract Provisions column.

#### Eligibility

All employees subject to the Attendance Rules are eligible to be granted personal leave except part-time employees who do not work a fixed number of hours, five days per week and employees designated as summer employees or summer replacements. (See Section 26.2 of this Manual.)

#### Personal Leave Anniversary Date

The anniversary date for personal leave is the date the employee attains coverage under the Attendance Rules. (Note: the personal leave anniversary date for a per diem or hourly paid employee is not the date he/she started earning eligibility for coverage under the Attendance Rules, but the date on which he/she first becomes eligible.) An adjustment in this anniversary date is required only when the employee is not on the payroll on such date. (See following, "Crediting of Personal Leave.") The personal leave anniversary date for employees hired before January 3, 1957 is January 3, 1957, except as adjusted as described below.

#### Related Contract Provisions

C-2

C-1  
C-11

C-1  
C-5

Sec. 26.1,  
C-1, C-5,  
C-8

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#### Crediting of Personal Leave

Employees are credited with five days personal leave each year on their anniversary date. An employee who is not in pay status on the anniversary date is not credited with personal leave until he/she returns to the payroll. The date of return to pay status becomes the new anniversary date for personal leave purposes. An employee who is in non-pay status for less than one year and returns prior to his/her anniversary date will have previously unused personal leave restored and will retain the same anniversary date.

An employee may not be credited with more than five days of personal leave during a twelve-month period. Personal leave is not cumulative. The balance of such leave remaining to the employee's credit expires at the close of business on the day immediately preceding his/her personal leave anniversary date.

#### Use of Personal Leave Credits

Personal leave credits are to be used at a time convenient to, and approved in advance by, the appointing authority. It is intended that the needs of the State take precedence over the needs of the employee although personal leave for religious observance shall be granted on the days and hours required as long as government functions may properly continue.

Although prior approval of the appointing authority is required before an employee may charge an absence from duty to personal leave credits, such approval may be granted and in some cases should be granted subsequent to the absence so long as the employee notifies the agency of his/her absence as soon as practicable and the appointing authority is satisfied that the absence was unexpected and unavoidable.

The following are some examples of absences which may be charged to personal leave credits:

- a. Religious observance.
- b. Personal business that would normally be conducted during working hours. This may include legal affairs, weddings, funerals, moving to new residence, preinduction or preenlistment examinations for military service, etc. Personal leave is also properly

#### Related Contract Provisions

C-6  
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C-3

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used when an employee absents himself/herself on his/her own initiative to discuss matters of personal business with representatives of agencies handling such matters as health insurance, social security, retirement system, veterans' affairs, etc. However, when the employee's agency arranges for representatives of such governmental agencies to be made available to employees to discuss pertinent matters, and employees are invited to consult with such representatives, time for these discussions should be allowed without charge to any leave credits.

- c. Illness or death in the employee's family. For purposes of this Section, the definition of family is any relative or relative-in-law, regardless of place of residence, or any persons with whom the employee has been making his/her home.
- d. Tardiness (See Section 20.3, "Tardiness," of this Manual).
- e. Personal illness and visits to a doctor or dentist (ordinarily only when sick leave credits are exhausted).
- f. Attendance at meetings or conventions of employee organizations, veteran organizations, etc. (There is no provision in the Attendance Rules for such time off without charge to leave credits.)
- g. Absence caused by events (except personal illness or disability) beyond the control of the employee. This includes commuting difficulties, emergencies in the home of the employee, etc.
- h. Absence caused by extraordinary weather. (See Section 21.7, "Leave for Extraordinary Weather Conditions," of this Manual.)

In addition to those situations listed, the appointing authority may permit an employee to charge absences to personal leave when he/she determines it to be in accordance with the purpose of such leave. An employee should not be required to charge vacation credits when he/she has a legitimate reason for using personal leave.

#### Related Contract Provisions

C-2

Sec. 21.12,  
C-3, C-5,  
C-16, C-20

C-2

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Personal leave should not be authorized to extend vacations nor merely to liquidate such credits.

Denial of the Use of Personal Leave

The two basic reasons for denying use of personal leave credits are the inability of the agency to spare the employee or the employee's reason for use of personal leave does not come within the intent of the Rule. Under normal circumstances an employee requesting personal leave should not be required to give a detailed explanation of a matter which is personal.

It is not intended that use of such leave be limited by any eligibility requirement (e.g., length of service). However, it is reasonable to deny the use of personal leave, except in a real emergency, to temporary employees hired to complete a job in an emergency situation or during peak work load periods.

Transfer of Personal Leave Credits

An employee who moves from one State agency to another has all unused personal leave credits transferred with him/her and retains the same anniversary date provided the position to which he/she moves is covered by the Attendance Rules. Under no circumstances will payment for unused personal leave credits be made.

Personal leave credits transferred upon movement from a position with a basic workweek of 37 1/2 hours to a position with a basic workweek of 40 hours, or vice versa, should be converted to reflect the new workweek. For example, 22 1/2 hours (3 days) of personal leave in a position with a 37 1/2 hour workweek converts to 24 hours for a 40 hour workweek. If the personal leave credits transferred are expressed in terms of days, the receiving agency can readily convert them to the appropriate number of hours for the new workweek.

Personal leave credits transferred upon movement between full-time and part-time items should also be converted to reflect the new workweek. The employee who has two days (16 hours) of personal leave outstanding when his/her five day workweek is reduced from 40 hours to 20 hours continues to have 2 days of personal leave but the 2 days would convert to only 8 hours in the part-time item. For the reverse movement, the number of hours would increase from 8 to 16.

Related  
Contract  
Provisions

C-2  
C-3

C-11  
C-2  
C-3

C-3

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Negotiating Units:

Administrative Services Unit Article 10.9(a)  
Institutional Services Unit Article 10.10(a)  
Operational Services Unit Article 10.11(a), (c), (d) and (e)  
Professional, Scientific and Technical  
Services Unit Article 12.11(a)  
Rent Regulation Services Unit Article 12.10(a)  
Security Services Unit Article 14.2  
Security Supervisors Unit Article 14.2

Effect:

Special Contract Provisions

Contract provisions are substantially identical for all units listed above with the following exceptions:

Operational Services Unit Article 10.11(c) specifies that personal leave may properly be used in the event of absences due to death in the immediate family; Article 10.11(d) provides that personal leave may be used in conjunction with an employee's vacation, and shall be subject to the same conditions as govern vacation. Article 10.11(e) provides that when an employee is unexpectedly and unavoidably absent from work without prior approval, and he/she provides proper notification to his/her employer within two hours of the start of the shift and furnishes an acceptable explanation for the absence, the employer may allow such absence to be charged to personal leave.

Although Article 10.11(e) of the OSU Agreement requires employees to call in within two hours after the start of the shift, agencies continue to have discretion to approve emergency use of personal leave whenever an employee makes such a request (regardless of meeting a call-in requirement) and the agency is satisfied that the circumstances prevented the employee from obtaining advance approval or providing earlier notification.



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Security Services and Security Supervisors Article 14.2(a) provides that employees entitled to be credited with personal leave shall be so credited not exceeding a total of five days in a year; Article 14.2(c) provides that personal leave shall not be carried over from year to year; Article 14.2(d) provides that personal leave may be used in conjunction with an employee's vacation, and shall be subject to the same conditions as govern vacation.

These provisions described above do not extend any benefit not already available to eligible employees subject to the Attendance Rules and negotiated agreements. They do, however, make such issues subject to the contract grievance procedures.

### General Provisions

Except as noted above, the following provisions apply to all employees regardless of negotiating unit.

### Use of Personal Leave

Employees shall be allowed to charge absences against personal leave in any case where such absence could properly be charged against vacation credits. Although the appointing authority generally may deny an employee the use of personal leave in any case where he/she would also deny him/her the use of vacation, he/she is still obligated to approve the use of personal leave for absences necessitated by religious observance obligations "...insofar as the same may be granted...without interference with the proper conduct of government functions."

Since personal leave may be used as vacation, it may be used without limitation to cover tardiness pursuant to an agency tardiness penalty schedule. It may be used for personal illness, death or illness in the family and visits to a doctor or dentist irrespective of whether sick leave credits have been exhausted and it may be used for the sole purpose of liquidating such credits prior to using vacation or prior to the employee's personal leave anniversary date. It may also be used to cover leave necessitated by extraordinary weather conditions and leave necessitated by an on-the-job injury, and it may be used to repay sick leave credits extended pursuant to Section 21.4 of the Attendance Rules.

Personal leave is provided for absences necessitated by religious observance obligations and personal business. Although it may be used for other purposes, including vacation, an employee may not be required to use personal leave unless other appropriate credits have been exhausted. Also, he/she may not be required to use personal leave to repay extended sick leave credits except upon separation from State service.

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### Requests to Use Personal Leave

An appointing authority shall not require an employee to give a reason for requesting use of personal leave provided the employee has submitted the request in advance and his/her absence "will not interfere with the proper conduct of governmental functions." However, an employee seeking special consideration or reconsideration of a denial to use personal leave is obligated to provide information sufficient to explain the request.

### Unused Personal Leave Cancelled

If an employee has a balance of personal leave remaining to his/her credit at the close of business on the day immediately preceding his/her personal leave anniversary date, such balance is cancelled.

### Use of Personal Leave Prior to Separation or Anniversary Date

In general, the intent of the subject contract items is to guarantee the use of personal leave credits as vacation and to prohibit limitations on the use of such credits during a period immediately preceding separation or prior to the employee's "personal leave anniversary date." So long as employees may not be compensated in cash for unused personal leave credits and so long as unused personal leave is cancelled on the employee's personal leave anniversary date, departments and agencies are expected to take all reasonable measures to ensure that employees are not denied the opportunity to liquidate such credits. However, employees may be denied the use of personal leave credits and thereby forced to "lose" such credits where time off cannot be granted as requested because the absence would "interfere with the proper conduct of governmental functions" or where the employee's request for time off is submitted immediately prior to his/her personal leave anniversary date or date of separation and there is insufficient time remaining to schedule the time off. For purposes of determining whether a "last minute" request to use personal leave should be approved, the appointing authority should consider the duration of leave requested and the number of workdays remaining prior to separation or the personal leave anniversary date. The employee who has five days of personal leave remaining should not expect to liquidate those credits if he/she gives less than two weeks' notice of his/her resignation or does not attempt to liquidate them until he/she is within a week or two of his/her personal leave anniversary date.

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### Use of Personal Leave During Probationary Period

If agency limitations are imposed on the use of vacation credits during a probationary period, the same limitations may be applied to the use of personal leave with appropriate modification for absences necessitated by religious observance obligations. However, the imposition of such limitations beyond six months or in the case of probationary periods on transfer and promotion should not be used to prohibit the liquidation of personal leave prior to the employee's anniversary date or date of separation from State service. As the subject contract items should not be interpreted as guaranteeing every new employee five days "vacation" during the first six months of his/her State service, agency limitations on the use of personal leave by employees serving a probationary period should not be employed so as to prohibit the liquidation of personal leave by employees with more than six months of continuous service.



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Negotiating Units:

Administrative Services Unit Article 10.9(b)  
Institutional Services Unit Article 10.10(b)  
Operational Services Unit Article 10.11(b)  
Professional, Scientific and Technical  
Services Unit Article 12.11(b)  
Rent Regulation Services Unit Article 12.10(b)

Effect:

Employees in the units listed above shall be allowed to use personal leave credits in 1/4 hour units.

Employing agencies may permit liquidation of personal leave in smaller units of time in accordance with "local arrangements." Such "local arrangements" as already exist (as of 4/1/73) are not superseded by the subject contract item and cannot be terminated unilaterally.

In accordance with a "local arrangement," an employee may be allowed to charge a 42-minute absence as a 50-minute charge (five 10-minute units) or as a 45-minute charge (nine 5-minute units).

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Negotiating Units:

Rent Regulation Services Unit Article 12.9

Effect:

Employees in the Rent Regulation Services Unit whose initial appointment to State service is on or after April 1, 1982, are credited with three days of personal leave provided by the agreement rather than the five days provided by the Attendance Rules. All other Attendance Rules and contract provisions concerning the establishment of the anniversary date, crediting, use and transfer of personal leave continue to apply. This means that any employee initially hired into State service on or after April 1, 1982, is eligible to be credited with three days of personal leave on each anniversary as provided in these contracts. Any employee with creditable State service prior to April 1, 1982, is eligible to be credited with five days of personal leave each year.

Employees in the Rent Regulation Services Unit who transferred to State service on April 1, 1984, pursuant to law, were entitled to have service prior to April 1, 1984 with New York City or the Conciliation and Appeals Board (CAB) counted as State service for attendance and leave purposes. Therefore, in applying the definition of "initially hired before April 1, 1982" to these employees, all City or CAB service must be counted in the same manner and to the same extent as State service would be counted in determining eligibility for three or five days of personal leave.

The crediting of three or five days of personal leave is determined by the employee's status on the personal leave anniversary date and any creditable State service prior to April 1, 1982.

If an employee moves to a position in the Rent Regulation Services Unit after April 1, 1982, and the appointing authority determines the employee is eligible for the three days of personal leave provided by the contracts, rather than the five days provided by the Rules, such employee will be entitled to retain, upon appointment to the Rent Regulation position, all personal leave credits previously received, even if they exceed three days. This retention is subject to all the usual Attendance Rules provisions concerning the transfer of personal leave upon movement between positions. On the employee's first personal leave anniversary date following movement to the position, only three days of personal leave will be credited.

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If an employee who is eligible to be credited with three days of personal leave under the Rent Regulation agreement moves to a position covered by the five-day provision of the Attendance Rules, such employee transfers current personal leave credits, subject to applicable rules, and is credited with five days on the first personal leave anniversary date following the move.

For example:

1. A full-time annual salaried employee in the Rent Regulation Services Unit transferred to State service on April 1, 1984 and had continuous creditable service since 1979. This employee is credited with five days of personal leave on the anniversary date each year.
2. A full-time annual salaried employee in the Rent Regulation Services Unit, who transferred to State service on April 1, 1984, had continuous creditable service from March 1983 to April 1984. This employee is credited with three days of personal leave on the anniversary date each year.
3. A full-time annual salaried employee is initially hired into State service in an M/C title after April 1, 1982. The personal leave anniversary date is May 13. On May 13, 1982, the employee is credited with five days of personal leave. In December 1985, the employee transfers to a Rent Regulation Services Unit position and unused personal leave credits are transferred also. On May 13, 1986, the employee is credited with three days of personal leave.

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### Negotiating Unit:

Professional, Scientific and Technical  
Services Unit Article 12.10

The subject article in the PS&T Unit agreement establishes procedures for a phased increase beginning on April 1, 1988 in the number of personal leave days granted to PS&T employees hired on or after April 1, 1982 to bring these employees up to a maximum of five days of personal leave beginning with the ninth year in which they are credited with personal leave. All other Attendance Rule and contract provisions concerning the establishment of the anniversary date, crediting, use and transfer of personal leave continue to apply.

Such employees are credited with personal leave in accordance with the following schedule:

Date of appointment (beginning of 1st year of service)	3 days
Second crediting of personal leave	3 days
Third crediting of personal leave	3 days
Fourth crediting of personal leave	3 days
Fifth crediting of personal leave	3 days
Sixth crediting of personal leave	3.5 days
Seventh crediting of personal leave	4 days
Eighth crediting of personal leave	4.5 days
Ninth crediting of personal leave and subsequent crediting	5 days

An employee who has no leaves of absence or breaks in service which affect his/her personal leave is credited with personal leave for the second time beginning with the second year of service, for the third time beginning with the third year of service, and so on.

For an employee to be deemed to have been hired on or after April 1, 1982 (and therefore subject to this revised schedule), the employee must not have had creditable State service before April 1, 1982.

The term "prior creditable service," for purposes of this article, means State service prior to April 1, 1982 (regardless of negotiating unit, including service with the Executive, Legislative and Judicial branches and service transferable under a reciprocal agreement) which was on a qualifying schedule (a schedule which would have entitled an employee to earn leave accruals) and which was not interrupted by a break in service of more than one year, or if interrupted by a break in service of more than one year, was followed by reinstatement by the Civil Service Commission or Department or by appointment from or while on a preferred list.

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In accordance with the Attendance Rules, when an employee is not on the payroll on his/her personal leave anniversary date, the anniversary date changes to the date the employee returns to the payroll. The employee is then credited with personal leave on the new anniversary date. However, the amount of personal leave the employee receives is determined by the number of times he/she has been credited with personal leave and not by the adjusted anniversary date itself.

For example, an employee hired on 8/1/82, with a personal leave anniversary date of 8/1/82, goes on a leave without pay from 7/1/87 to 10/1/88. The personal leave anniversary date is adjusted to 10/1/88, the date of the employee's return to the payroll. On 10/1/88 the employee receives 3.5 days of personal leave. (Before going on leave without pay the employee was last credited with 3 days of personal leave on 8/1/86 at the beginning of the fifth year of service. The employee would have been credited with personal leave for the sixth time on 8/1/87 but the employee was on leave without pay. The employee's sixth anniversary date is now the date of return from leave, 10/1/88, and he/she receives 3.5 days).

If an employee hired on or after April 1, 1982 in another negotiating unit moves to a position in the PS&T Unit and the appointing authority determines that the employee is subject to the revised personal leave schedule, such employee will be entitled to retain, upon appointment to the PS&T position, all personal leave days previously received. On the employee's first personal leave date following movement to the PS&T position, the employee will be subject to the revised personal leave schedule.

Similarly, if an employee hired on or after April 1, 1982 in the PS&T Unit and who is subject to the revised personal leave schedule, moves to a position in another unit subject to the Attendance Rules, such employee becomes eligible to be granted personal leave in accordance with the Attendance Rules and/or applicable negotiated agreement on the first anniversary date following movement to the new unit.

Some examples follow:

- 1) A full-time annual salaried employee was initially hired into State service on November 8, 1982 in a PS&T position. On November 8, 1988, this employee should have been credited with four days of personal leave.
- 2) A full-time annual salaried employee was hired in an ASU position on June 1, 1981. On May 15, 1988, this employee moved to a PS&T position and unused personal leave was transferred with the employee. On June 1, 1988, the employee was credited with five days of personal leave.

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- 3) A full-time annual salaried employee was hired in an M/C position on July 30, 1983. On December 30, 1985, this employee transferred into the PS&T Unit and unused personal leave was transferred with the employee. On July 30, 1988, this employee was credited with 3.5 days of personal leave.
- 4) A full-time annual salaried PS&T employee was hired on May 14, 1980 and resigned from State service in 1985. This employee was rehired in a PS&T position on October 20, 1988 and received three days of personal leave. This employee was then reinstated by the Civil Service Commission on December 20, 1988, and would be credited with five days of personal leave on October 20, 1989.



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Written Requests for Leave

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Negotiating Unit:

Institutional Services Unit Article 10.12

Effect:

The subject article in the Institutional Services Unit agreement establishes procedures for requesting use of all types of leave credits.

If a request is denied, the written response must include a statement of the reasons for the denial. See page C-11 of Section 21.2, Vacation, for discussion of this item.